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**REMARKS****INTRODUCTION**

In accordance with the foregoing, claims 9, 10, and 13 have been amended and claims 11 and 14 have been canceled. No new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 1-10, 12, and 13 are pending and under consideration. Claims 6 and 7 are presently withdrawn due to an election of species requirement, but should be reinstated upon allowance of the corresponding independent base claim 1. Reconsideration is respectfully requested.

**ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116**

Applicants request entry of this Rule 116 Response and Request for Reconsideration because rejected claim 14 has been canceled thereby at least reducing the issues for appeal, the amendments of claims 9, 10, and 13 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised, and the amendments do not significantly alter the scope of the claims and place the application at least into a better form for appeal.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis). Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**AMENDMENTS TO CLAIMS 9, 10, 12, and 13**

The amendments to claims 9, 10, and 13 have been made to improve the form and to clarify the language of the claims. The amendments are not intended to affect the scope of the claims and should therefore not be interpreted to do so.

**REJECTION UNDER 35 U.S.C. §103**

In the Office Action, claims 1, 5, and 14 were rejected under 35 U.S.C. §103 in view of Herring, U.S. Patent 3,643,524 and Ichiba, U.S. Patent 5,970,817 and vice versa. The

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rejections are traversed and reconsideration is requested.

Claim 1 is directed to a pedal device for a vehicle comprising a depressable portion, which is to be operationally depressed by a driver of the vehicle, an output member, a longitudinal adjustment device, and a pedal-ratio varying mechanism. The output member is supported such that the output member is pivoted when the depressable portion is operationally depressed, to apply an output, corresponding to a depression force applied to the depressable portion, to a motive-power transmitting member. The longitudinal adjustment device moves the depressable portion in a longitudinal direction when the depressable portion is not being operationally depressed. The pedal-ratio varying mechanism, which is disposed between the output member and the motive-power transmitting member, changes a pedal-ratio in relation to a depressing stroke of the pedal device.

In contrast, applicants note that Herring discloses a pedal device comprising a foot pad 34, a leg 16 of a carrier to apply an output based on a depression force applied to the foot pad 34, and a rotary drive cable assembly 90 to move the foot pad 34 in a longitudinal direction. However, Herring fails to disclose or suggest a pedal ratio varying mechanism, as claimed.

Applicants also note that the rotary drive cable assembly 90, of Herring, has a complicated structure as evident from FIGS. 1 and 2, and therefore, Herring includes a restricted pedal supporting structure including a link mechanism with an insufficient length of a pedal arm. As a result, Herring fails to provide a sufficient pedal ratio.

In the present invention, since the pedal-ratio varying mechanism is disposed between the output member and the motive-power transmitting member, the size of the pedal device may be compact, and thus, a sufficient pedal ratio is obtained. Further, a degree of freedom for designing the pedal device and a length of the stroke may be increased.

Similarly, applicants note that Ichiba discloses a pedal device comprising a pedal depression-pressure portion 15, a brake pedal 14 to apply an output based on a depression force applied to the pedal depression-pressure portion 15, and a connecting pin 22, a guide plate 24, and a guide hole 26 to change a pedal ratio.

However, Ichiba fails to disclose or suggest a longitudinal adjustment device, as claimed. In fact, applicants respectfully assert that the structure disclosed in Ichiba does not include the claimed "pedal-ratio varying mechanism which is disposed between said output member and said motive-power transmitting member," as suggested in the Office Action. Rather, as FIG. 1 of Ichiba illustrates, the push rod 20, which is alleged to correspond to the claimed motive-power

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transmitting member, extends past the connecting pin 22, the guide plate 24, and the guide hole 26, which are alleged to combine to form the claimed pedal-ratio varying mechanism, to connect directly to the brake pedal 14. Thus, Ichiba fails to teach a "pedal-ratio varying mechanism which is disposed between said output member and said motive-power transmitting member," as presently claimed.

Furthermore, in Ichiba, the minimum pedal ratio is determined such that sufficient braking force can be obtained while a user applies the maximum depressing force. Therefore, the maximum pedal ratio in the rearward end position of a displacement stroke is excessive when the minimum pedal ratio is determined at a value which is higher than necessary, whereas, in the present invention, since the pedal-ratio varying mechanism is disposed between the output member and the motive-power transmitting member, the pedal ratio is changed in relation to a depressing stroke of the pedal device.

Nevertheless, according to the Office Action, it is argued that it would have been obvious to combine the teachings of Ichiba, including the connecting pin 22, the guide plate 24, and the guide hole 26, with the teachings of Herring, including the rotary drive cable assembly 90, to provide a device having both a pedal ratio varying mechanism and a longitudinal adjustment device, as claimed. However, the Office Action does not provide evidence that either reference (a) overcomes the deficiencies discussed above, or (b) teaches or suggests a motivation to combine the references as suggested.

"Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention wherein there is some teaching suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." See MPEP 2143.01.

Thus, a prima facie obviousness rejection requires that the modification of one reference be based on motivation evidenced in the record. The cited art does not suggest any motivation to modify either Herring or Ichiba to provide a device having both a pedal ratio varying mechanism and a longitudinal adjustment device, as claimed. Thus, a rejection based on the rationale given by the Examiner is improper.

Indeed, the references to Herring and Ichiba actually teach away from the suggested combination. That is, in Herring the brake mechanism control rod 20 extends forwardly of the carrier 14 from the pivot stud 18 "to be received through an aperture in the vehicle firewall." See

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*Herring, column 2, lines 10-20.* The guide plate 24, of Ichiba, however, requires more space to guide the brake mechanism control rod 20 in up and down directions than is provided by Herring. This same problem is encountered when attempting to combine the structure of Herring with that of Ichiba. That is, there is simply no space provided in either reference for the combination.

In such an attempt to couple the teachings of each of the references together in an actual automobile, the advantage of the presently claimed invention is illustrated. Since neither Herring nor Ichiba provide for space in which to install the teachings of the other reference, without further modifications of the references, insufficient pedal ratio of the coupled device is obtained. Applicants respectfully assert that there is no teaching or suggestion in either reference for such modifications. Conversely, in the presently claimed invention, sufficient maximum length of a movable stroke of the depressable portion in a longitudinal direction of the body of the vehicle is obtained.

Thus, applicants respectfully assert that claim 1 patentably distinguishes over the references separately and defines over the suggested combination. Therefore, claim 1 is submitted to be allowable.

Regarding the rejection of claim 5, claim 5 is dependent on claim 1 and is allowable for at least the reasons noted above and additionally because claim 5 recites subject matter which is further patentably distinguishing over the prior art. For example, claim 5 recites that "said pedal ratio is represented by a ratio of a depressing amount by which said depressable portion is depressed, to a displaced amount by which said motive-power transmitting member is displaced with said depressable portion being depressed by said depressing amount."

Regarding the rejection of claim 14, this claim has been canceled. Thus, the rejection is moot.

In the Office Action, claims 9 and 12 were rejected under 35 U.S.C. §103 as unpatentable over Janosi, U.S. Patent 3,678,779 in view of Ichiba, U.S. Patent 5,970,817 and Herring, U.S. Patent 3,643,524. The rejection is traversed and reconsideration is requested.

Regarding the rejection of claim 9, applicants respectfully assert that the reference to Janosi fails to cure the deficiencies of the suggested combination of Herring and Ichiba, as noted above. That is, Janosi fails to provide a motivation to combine Herring and Ichiba and further fails to teach or suggest that the connecting pin 22, the guide plate 24, and the guide

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hole 26, of Ichiba, are disposed between an output member and a motive power transmitting member, as claimed.

Thus, applicants respectfully assert that claim 9 patentably distinguishes over the references separately and defines over the suggested combination. Therefore, claim 9 is submitted to be allowable.

Regarding the rejection of claim 12, claim 12 is dependent on claim 9 and is allowable for at least the reasons noted above and additionally because claim 12 recites subject matter which is further patentably distinguishing over the prior art. For example, claim 12 recites that "said pedal ratio is represented by a ratio of a depressing amount by which said depressable portion is depressed, to a displaced amount by which said motive-power transmitting member is displaced with said depressable portion being depressed by said depressing amount."

#### **ALLOWABLE SUBJECT MATTER**

Applicants acknowledge with appreciation that claims 2-4, 8, 10, 11, and 13 have been found to contain allowable subject matter. Such claims have not been rewritten in view of the patentability of their corresponding independent base claims 1 and 9, as noted above.

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**CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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